105-04959 Alberta. Office of the Ombudsman : Annual report (2003/04)

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NATURAL JUSTICE ~ ADMINISTRATIVE FAIRNESS ~ INDEPENDENT REVIEW

ALBERTA OFFICE OF THE OMBUDSMAN
SINCE 1967

OFFICE OF THE

Ombudsman

37TH ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2003 TO MARCH 31, 2004

105-04959/

LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

November, 2004

The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 37th Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 28(1) of the Ombudsman Act and covers the activities of the Office of the Ombudsman for the period April 1, 2003 through March 31, 2004.

Respectfully,

G. B. (Gord) Button
Ombudsman

OFFICE OF THE

Ombudsman

VISION

Dynamic and changing with the times,
the Office of the Alberta Ombudsman
is the recognized standard of independent review
of administrative fairness.

VALUES

We believe in:
Fairness ~ Transparency ~ Integrity
Accountability ~ Mutual Respect

MISSION

The Office of the Alberta Ombudsman
will impartially and independently review
the administrative processes of
provincial government departments
and professional organizations within its jurisdiction
to ensure they treat citizens fairly,
equitably and with respect.

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G. B. (GORD) BUTTON

Message FROM THE OMBUDSMAN

INTRODUCTION

It is my duty and a distinct pleasure to tender my first annual report, and the 37th such report of the Alberta Ombudsman, to the Legislative Assembly of Alberta. I am honoured and humbled to have been selected from a large group of highly qualified candidates to be appointed Alberta's seventh Ombudsman on September 15, 2003. Following in the proud tradition of those who came before me is a challenge I accept with great anticipation and a determination to continue to provide dynamic leadership in the pursuit of fairness for all Albertans.

I must first acknowledge the significant contributions of my predecessor, Scott Sutton. As I assumed office part way through the year, this report will also highlight some of his accomplishments. I would also like to acknowledge the contribution of Brian Carver, Director of Investigative Services (Northern Region), who assumed the position of Acting Ombudsman between the retirement of Mr. Sutton and my appointment. I quickly discovered that I had assumed responsibility for an office that was thoroughly meeting the needs of Albertans and the Legislative Assembly of Alberta and for that I owe a debt to these former leaders. This report also acknowledges the efforts of all the staff of the Office of the Ombudsman who contribute to our accomplishments on a daily basis.

I will continue the tradition of updating readers on significant accomplishments and challenges faced during the past year. However, I will also outline my vision for the future and the priorities I have set to guide our actions towards accomplishing those goals.

THE CONTEXT – Appointment, Responsibilities and Authorities

Appointment and Responsibilities

The Ombudsman is appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly of Alberta. My authority to conduct investigations within both traditional and extended jurisdictions is established by statute in the *Ombudsman Act*. The Act ensures the Ombudsman has independence from the government of the day which is critical to my ability to provide a neutral and impartial review of administrative actions of government departments and certain professional organizations. My jurisdiction begins only after all avenues of review and appeal have been exhausted. There is no cost to the complainant for the services of my Office and all investigations are conducted in strict confidence.

During investigations, I neither advocate on behalf of citizens who lodge complaints nor do I represent the government department or professional organization being complained about. The role of the Ombudsman is to examine the process followed by the public body or professional organization to determine if it was fair and in compliance with the rules of natural justice. It is less a question of the "correctness" of the decision or action as it is an examination of the "reasonableness" of it. I focus on a non-adversarial approach to solving problems rather than affixing blame. I measure the success or failure of my Office not by outputs such as the number of supported complaints but by outcomes. These outcomes include fair treatment experienced by citizens and the evolution of better administrative processes in departments and professional organizations which meet the needs of both citizens and decision-makers in an equitable manner.

Authorities

Traditional Authorities

Traditionally, the Ombudsman investigated complaints from citizens about the fairness of administrative actions of Alberta government departments. This exempts jurisdiction over the actions and decisions of elected officials such as Ministers of the Crown or issues decided by or before the courts. These traditional types of investigations continue to account for the vast majority of our work.

Extended Authorities

Over the past few years, the Ombudsman's authority has been extended to include a number of professional organizations. I now have such jurisdiction over professions under the *Regulated Accounting Profession Act*; the *Regulated Forestry Profession Act* and the *Veterinary Profession Act*. Although our exposure within these professions has been limited to date, the professional organizations have been very willing to work with my Office to ensure there is fairness in their processes.

The passing of the *Health Professions Act* in December 2001 provided a framework for my authority to extend to the 28 colleges representing the 30 health professions in Alberta. Progress has been slow and to date only nine of the 28 health profession schedules have been proclaimed to bring the health professions under my jurisdiction. Similarly, amendments to the *Ombudsman Act* passed by the Legislative Assembly in the spring of 2003 provided a framework for the extension of my jurisdiction to include the patient concerns resolution processes of the nine Regional Health Authorities in Alberta and the Alberta Cancer Board. We are continuing to work with the Ministry of Health and Wellness to get the required regulation passed

which will allow us to exercise that jurisdiction. Unfortunately, progress on both of these fronts has been slower than desired. Never in our history has the confidence in and satisfaction with our healthcare system been of greater concern to the citizens and government of Alberta. These two extensions of my authority were approved by legislators to help address these concerns but due to slow progress, have not had significant impact to date. I am committed to continue working closely with the Ministry of Health and Wellness to bring these two initiatives to fruition.

THE WORKLOAD

To date, the expanded jurisdiction of the Ombudsman has had minimal impact on the workload of the Office. However, with the progress previously discussed, that is expected to change in the coming year. Therefore, the vast majority of statistics contained in this report relate to complaints about provincial government departments.

Following an increase in written complaints last year, this year we continued the downward trend of the previous several years. Written complaints were down 14 percent this year to 617 from 718 last year. However, the percentage of those resulting in formal investigations was up resulting in an overall decrease of only seven percent in the number requiring investigation. Similarly, oral complaints also dropped by seven percent over the previous year repeating the pattern of the last several years. Despite the declining numbers of complaints received, the percentage of investigations resulting in full or partial support rose from 24 percent last year to 35 percent this year. This reflects a significant increase in complexity, effort and time required to resolve these complaints and has impacted the number of files carried over to the current year.

I have analyzed these statistics to incorporate their significance into my management of this Office. It is difficult to attribute the decline in the number of complaints received to any one factor. It may reflect the healthy economic situation in the province which results in fewer citizens relying on government-administered programs to support them. It may also reflect, to some degree, the success of cooperative efforts between this Office and government departments aimed at improving the fairness of decision-making processes. These statistics may also reflect a lack of general public awareness of the role of this Office and our jurisdiction to investigate complaints of unfair treatment. As discussed later, I am taking a proactive approach to address this concern.

CHALLENGES, OPPORTUNITIES AND SUCCESSES

The past year has been an exciting and interesting one for the Office of the Ombudsman. The spring sitting of the Legislative Assembly saw the passing of long-awaited and significant amendments to the *Ombudsman Act*. One very important amendment was the provision of Section 21.1(1) of the *Ombudsman Act* which allows departments, agencies and professional organizations on a recommendation from the Ombudsman to rehear or reconsider a matter or decision and quash, confirm or vary that decision, notwithstanding any provision in any other act that a decision, act or omission is final and binding. The provision allows and encourages departments, agencies and professional organizations to work with this Office to right the wrong when it is appropriate and necessary to ensure citizens are treated fairly. Other jurisdictions in Canada do not have such enabling legislation and envy the added ability it provides us in Alberta.

The Ombudsman does not have the authority to direct a department, agency or professional organization to take action. Mine is the power of moral persuasion. I am dependent on the willingness of the public body to work with me to right the wrong and correct unfair situations identified through the investigative process. The high degree of cooperation received from most decision-making authorities by this Office has been a pleasant experience. In most cases, decision-makers have been very cooperative and implemented my recommendations to correct the unfairness, not only for the good of the complainant but to improve the overall quality of the services they provide.

For example, the Ministry of Human Resources and Employment continues to be the focus of a significant proportion of our investigations. Given the large number of contacts the Ministry has with the public and the significance of its decisions for individuals, it is not surprising that this Ministry contributes significantly to our workload. I do not believe this in any way reflects a higher degree of unfair decisions or actions within this area. I have identified several issues to the Deputy Minister and continue to receive excellent support from her and her senior managers. This has resulted in some very significant changes in the way they deliver their services to Albertans which will serve everyone well in the future. My hat is off to this Ministry.

"Mine is the power of moral persuasion."

We also receive a significant number of complaints about the Ministry of the Solicitor General. Many of these complaints are from inmates in adult corrections and we continue to receive excellent cooperation from management in the correctional facilities and the department to resolve these issues. This year saw our first significant investigations into the Victims of Crime Financial Benefits Program and the Criminal Injuries Review Board which are administered by this Ministry. A number of recommendations for changes to improve the quality of decisions and responsiveness to citizens affected by criminal acts are currently being discussed with both the Deputy Minister and the Chairman of the Criminal Injuries Review Board. I am confident our cooperative efforts will result in improved program delivery to those adversely affected by criminal acts in the future. My thanks go out to this Ministry.

The Maintenance Enforcement Program, delivered by the Ministry of Justice and Attorney General, continues to generate complaints from clients about their Complaints Resolution Process. This is not unexpected when you consider the Program manages over 50,000 files and receives 10,000 to 12,000 pieces of correspondence each month. However, we continue to receive justified complaints from clients who are unable to get a fair response to their complaints about the decisions or actions of Program staff. I have engaged in ongoing discussions with the Director of the Program and the Deputy Minister which have been very progressive. They have undertaken a number of initiatives to address the concerns identified through my investigations and I am confident we will see significant improvement in the coming year. I will continue my dialogue with the Director and the Deputy Minister to ensure these concerns are rectified. My predecessor reported on a significant investigation with respect to the processing of subrogated payments to the Program in a past annual report. I am pleased to advise that the resolution of the problems identified at that time appear to be well in hand.

Of course, there are always areas of concern that require cooperation to resolve. This Office has previously reported on one such program which continues to generate complaints for investigation by this Office. The Protection for Persons in Care Program (PPIC) is governed by the *Protection for Persons in Care Act* (PPCA) and is delivered by the Ministry of Community Development. In 2001, the Minister asked this Office to undertake an investigation into PPIC. However, as we reported last year, before that investigation was completed, a Legislative Review Committee was established by the Minister to review the legislation. The Ombudsman therefore abandoned his investigation due to overlapping mandates with the Committee. The Committee's report was released in September 2003 and disseminated for consultation and input from interested parties. I met with the Deputy Minister and the Minister to discuss my concerns, most importantly the Committee's recommendation that the principles of natural justice should not apply to investigations or procedures under this legislation. I believe following the principles of natural justice brings transparency and fairness to any process. Since PPIC is such an important program it certainly warrants adherence to those principles. We are still awaiting an announcement on the outcome of the consultation initiative and resulting changes to PPIC. I will continue to work with the Ministry to satisfactorily resolve my concerns and I look forward to continued dialogue with representatives toward that objective.

"I believe following the laws of natural justice brings transparency and fairness to any process."

A LOOK INTO THE FUTURE

The future brings many challenges and opportunities for the Office of the Ombudsman. My two senior operational managers, Brian Carver and Gordon Schlagel, will both retire in 2004. Both have been with the Office for over 17 years and this will be a significant loss of experience and dedication. However, I have hired their replacements and am confident we will continue to benefit from superior leadership in these key areas.

Canada is one of only four countries in the world that has Ombudsman offices at some level but does not have an Ombudsman of general jurisdiction at the federal level. There are Ombudsman offices in every province except Prince Edward Island and there is also an Ombudsman in the Yukon. The concept of a federal Ombudsman has been discussed many times over the last several years but has yet to be implemented. The Canadian Council of Parliamentary Ombudsmen, to which all provincial Ombudsmen belong, has committed itself to pursuing this initiative with the new federal government.

Since my appointment, I have been concerned that the Office of the Ombudsman and its role and mandate are not widely known in Alberta. As a result, there may be citizens who could benefit from our services but are not aware of the Office or what assistance we can provide. To address this concern, I have implemented an outreach program to raise the level of awareness and understanding of the role and responsibility of the Alberta Ombudsman.

For the last several years this Office has emphasized formal investigation of complaints. Prior to that, informal problem-solving efforts were common and successful. Other provincial Ombudsmen also utilize various informal problem-solving approaches with success. In order to become more responsive to the

needs of citizens and departments, agencies or professional organizations being investigated, I am pursuing a return to less formal problem-solving approaches, when they are warranted. I have received the full support of the Deputy Ministers for this initiative and have already implemented it to some degree. I look forward to further use of these less formal and time-consuming processes in the coming year.

Given the nature of the work and the genesis of the issues of complaint, not all complainants will be satisfied with the outcome of my investigations. While that is unfortunate, it is to be expected. I take the concerns expressed by these complainants very seriously. Although my decisions are final and not open to further appeal, I carefully assess each situation and have incorporated new policies and procedures to address the concerns raised and reduce the number of such complaints in future. I am committed to continuing this diligent review and assessment process in order to remain accountable to the citizens of Alberta.

To address these issues and ensure this Office remains value added to Albertans, I have established six priority goals for the coming year:

1. Promote awareness and understanding of the role of the Ombudsman.
2. Enhance the quality of service and responsiveness to the public, stakeholders and government departments, agencies and professional organizations.
3. Promote fairness and accountability in public sector administration.
4. Continued emphasis on the quality and timeliness of investigations.
5. Incorporation of the extended authorities into our mandate.
6. Develop and allocate resources to address the impact of the extension of authority of the Ombudsman and anticipated growth in workload as a result of community outreach initiatives.

CLOSING COMMENTS

As I enter the coming year, I am filled with enthusiasm and optimism. I am pleased by the spirit of cooperation shown by decision-makers to improve the delivery of administrative services and decision-making to Albertans. The expansion of my jurisdiction will give even more citizens a final avenue of review when they feel unfairly treated in the administration of programs and services. The Office of the Ombudsman continues to enjoy unwavering support from the Standing Committee on Legislative Offices and is suitably resourced and financed to complete its very important work. I remain committed to providing prudent management and appropriate oversight of operations to ensure this Office remains a valuable resource to Alberta and its citizens.

G. B. (Gord) Button
Ombudsman

OFFICE OF THE OMBUDSMAN

Synopsis

HOW WE HANDLE CALLS

The Intake Officer is the first contact most Albertans have with the Office of the Ombudsman. This person is responsible for listening to and assessing all incoming phone calls, walk-in complaints and communication received through the Office's official e-mail address. The Officer will assess the nature of the call, possible jurisdiction and make referrals or provide information as necessary.

Of the 4146 oral complaints received this year, 62 percent were non-jurisdictional. These are typically calls outside the realm of the provincial government, including the federal government's Employment Insurance program, the courts, private legal practitioners, civic administrators, police or private citizens. In these instances the resourceful Intake Officer will provide as much information and assistance as possible, including telephone numbers and contact persons within these organizations if known. Every caller is assisted to the best of our abilities.

The remaining 38 percent of our calls this year were jurisdictional in nature and involved a complaint about a department, board or agency of the Alberta government or professional organization which falls under the Ombudsman's authority to investigate. While assessing the nature of the complaint, the Intake Officer will inform the complainant of any avenues of internal complaint resolution or appeal that may be available.

Departments handle complaint resolution differently, so the complainant may be directed to an internal complaint evaluation, statutory panel review or board of appeal. For example, the Workers' Compensation Board offers two appeal processes for grievances. Complaints against Human Resources and Employment can be submitted to a Citizen's Appeal Panel. Since the Office of the Ombudsman is a complaint mechanism of last resort, all avenues of appeal must be exhausted prior to the Ombudsman considering the case.

Of the 1688 jurisdictional complaints processed by the Intake Officer, the vast majority (1167, or 69 percent), were referred to the appropriate authority or appeal mechanism. Seven percent were categorized as information requests, and another one percent were informally resolved. The remaining 382 complaints – or 23 percent of all jurisdictional complaints received – had exhausted all avenues of appeal and were asked to write a letter of complaint to the Ombudsman.

OFFICE SERVICES

Investigative Services

The Ombudsman for the Province of Alberta is appointed by the Legislative Assembly to receive, investigate and resolve complaints from individuals adversely affected by any administrative act, omission or impropriety of the Alberta public service and certain professional bodies. The Ombudsman is an impartial investigator, independent of government, who provides a third-party review process for administrative decisions. The Ombudsman's mandate is not to affix blame or impose penalty but rather to resolve complaints in a fair and equitable manner.

The Ombudsman:

- Conducts investigations of complaints lodged by people who are directly affected by an administrative decision, act, omission or recommendation of an Alberta government department, board, agency or commission.
- May launch investigations stemming from his own initiative or from a Legislative Assembly committee referral or a Minister of the Crown.
- Acts as a third-party review mechanism for complaints against certain professional bodies, including some health profession colleges under the *Health Professions Act*, accounting profession organizations under the *Regulated Accounting Profession Act*, forester and forest technologist profession colleges under the *Regulated Forestry Profession Act* and the Alberta Veterinary Medical Association under the *Veterinary Profession Act*.
- Is an impartial complaint mechanism of last resort.
- Submits recommendations to correct incidents of unfairness.

The Ombudsman does not:

- Investigate complaints involving matters that have been decided by the courts, about actions of elected officials in their capacity as Members of the Legislative Assembly or Ministers of the Crown, about actions of persons acting as solicitors for the Crown or counsel for the Crown in any proceedings.
- Investigate complaints against the federal government, municipalities, universities or schools.
- Examine complaints regarding private matters.
- Possess remedial authority: the Ombudsman's influence is restricted to the power of recommendation.

Information and Referral Services

The Ombudsman's Office acts as a complaint clearinghouse, directing callers to the appropriate contact, department or other complaint mechanism when the complaint falls outside the Ombudsman's jurisdiction to investigate.

Legal Services

Legal Services conducts research, forms interpretations and presents legal opinions as they relate to both jurisdictional and investigative issues

Corporate Services

Corporate Services encompasses seven functional areas.

Business Planning: A three-year business plan is prepared to deliver the Ombudsman's program initiatives in an effective, timely and consistent manner.

Financial Management: Works within the framework of the *Financial Administration Act* and the *Government Accountability Act* to direct and implement the Office's fiscal planning, monitoring, reporting and budgetary functions.

Human Resources: Administers all functions including recruitment and training, classification, occupational health and safety, employee relations, benefits management and fee-for-service contract administration.

Information Technology: Oversees automated system design, development, operational support and maintenance of information technology and develops strategic direction initiatives to enhance program delivery.

Communications: Coordinates communication and information requirements, including the external web site, annual report, promotional/informational materials, media releases and press briefings.

Corporate Support: Develops and implements administrative systems, including data processing, records management, purchasing, property management, contract service management, telecommunications, inventory control and security.

Freedom of Information and Protection of Privacy: Serves as a consultant to ministries regarding the legal interpretation of the *Freedom of Information and Protection of Privacy Act* as it specifically pertains to the Office of the Ombudsman.

A YEAR IN *Review*

APRIL 1, 2003 through MARCH 31, 2004

4146 Oral Complaints received, down 6% from 2002/2003

617 Written complaints received, down 14% from 2002/2003

140 Files carried forward from previous years

497 New files opened

274 Total files investigated

- 14% Supported
- 22% Partially supported
- 54% Unsupported
- 10% Discontinued

196 Total not investigated

- 66% Referred to other remedy or appeal
- 16% No authority to investigate
- 10% Declined on discretionary grounds
- 4% Information requests
- 4% Otherwise resolved (without completing a full investigation)

470 Files closed as of March 31, 2004

167 Files carried forward to next year

Of the 497 new complaint files opened, approximately:

28% involved Boards, Agencies and Professional Organizations (including 19% involving Workers' Compensation Board and the Appeals Commission for Alberta Workers' Compensation)

27% involved Human Resources and Employment

21% involved Solicitor General Correctional Services

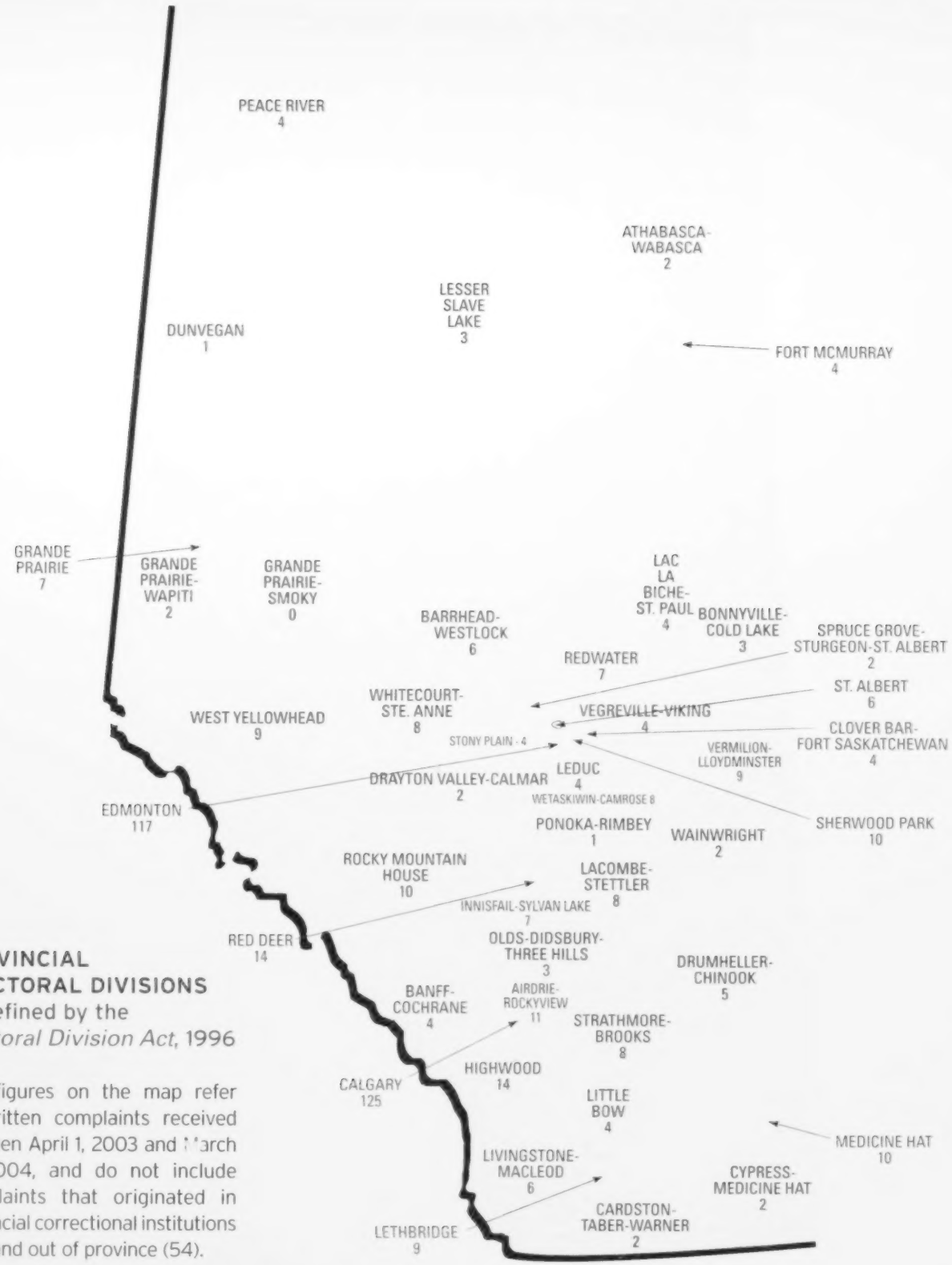
6% involved Children's Services

5% involved the Maintenance Enforcement Program

2% involved Health and Wellness

2% involved Justice and Attorney General

The remaining 9% involved Agriculture, Food and Rural Development; Alberta Corporate Service Centre; Community Development; Energy; Environment; Finance; Gaming; Government Services; Infrastructure; Learning; Municipal Affairs; Revenue; Seniors; Solicitor General; Sustainable Resource Development and Transportation.



PROVINCIAL ELECTORAL DIVISIONS
as defined by the
Electoral Division Act, 1996

The figures on the map refer to written complaints received between April 1, 2003 and March 31, 2004, and do not include complaints that originated in provincial correctional institutions (88) and out of province (54).

BY DEPARTMENTS, BOARDS, AGENCIES AND PROFESSIONAL ORGANIZATIONS

INVESTIGATED

	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	SUPPORTED	PARTIALLY SUPPORTED	UNSUPPORTED	DISCONTINUED
DEPARTMENTS								
AGRICULTURE, FOOD & RURAL DEVELOPMENT	1	2	5	3	1	1		1
ALBERTA CORPORATE SERVICE CENTRE		1	7					
CHILDREN'S SERVICES	11	155	29	17	1	6	9	1
COMMUNITY DEVELOPMENT	4	11	2	3	1	1	1	
ENERGY		2	1					
ENVIRONMENT	1	4	3	1		1		
FINANCE		4	2	2			1	1
GAMING		2						
GOVERNMENT SERVICES	1	9	5	1			1	
HEALTH AND WELLNESS	3	30	9	7	1	1	3	2
HUMAN RESOURCES & EMPLOYMENT	34	349	132	83	11	24	44	4
INFRASTRUCTURE	1	2	1	2			1	1
JUSTICE & ATTORNEY GENERAL		31	9	1			1	
Maintenance Enforcement Program	6	147	26	10	2	1	7	
LEARNING	5	29	7	4		2	2	
MUNICIPAL AFFAIRS	2	1	2	2		2		
REVENUE		1	1					
SENIORS	1	5	6	3		1	2	
SOLICITOR GENERAL	4	4	3	3		2	1	
Corrections	16	427	105	64	12	3	40	9
SUSTAINABLE RESOURCE DEVELOPMENT	5	9	1	2			1	1
TRANSPORTATION	2	16	4	3		1	1	1
TOTAL: DEPARTMENTS	**97**	**1241**	**360**	**211**	**29**	**46**	**115**	**21**
BOARDS, AGENCIES & PROFESSIONAL ORGANIZATIONS								
ACCOUNTING PROFESSION	1							
AGRICULTURE FINANCIAL SERVICES CORPORATION	2	8	4	4			1	3
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION		1						
ALBERTA ENERGY & UTILITIES BOARD		7	2					
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	1	11	5	2		1	1	
ALBERTA PENSIONS ADMINISTRATION	1	6	2	1			1	
ALBERTA SECURITIES COMMISSION		1						
ALBERTA TEACHERS' RETIREMENT FUND BOARD		1						
ALBERTA TRANSPORTATION SAFETY BOARD			1					
ATB FINANCIAL	3	16	11	6	2		4	
CRIMINAL INJURIES REVIEW BOARD	2	2	2					
HEALTH PROFESSIONS	1		7	1		1		
HEALTH FACILITIES REVIEW COMMITTEE	2		1	2		2		
LABOUR RELATIONS BOARD		3	1					
MUNICIPAL GOVERNMENT BOARD		1	2					
NATURAL RESOURCES CONSERVATION BOARD	1		1	2		1	1	
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARD	2	9	1	2		2		
PUBLIC AFFAIRS BUREAU		1						
SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD	1	1	1	1		1		
WORKERS' COMPENSATION BOARD	11	262	57	17	5	2	8	2
APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION	15	16	38	25	2	4	16	3
ALBERTA VETERINARY MEDICAL ASSOCIATION			1					
TOTAL: BOARDS, AGENCIES & PROFESSIONAL ORGANIZATIONS	**43**	**346**	**137**	**63**	**9**	**14**	**32**	**8**
TOTAL	**140**	**1587**	**497**	**274**	**38**	**60**	**147**	**29**

NOT INVESTIGATED

TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO OTHER REMEDY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRETIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	
								DEPARTMENTS
2				2		5	1	AGRICULTURE, FOOD & RURAL DEVELOPMENT
2				1	1	2	5	ALBERTA CORPORATE SERVICE CENTRE
16	2	12		2		33	7	CHILDREN'S SERVICES
						3	3	COMMUNITY DEVELOPMENT
							1	ENERGY
						1	3	ENVIRONMENT
						2		FINANCE
								GAMING
4		2		2		5	1	GOVERNMENT SERVICES
2		2				9	3	HEALTH AND WELLNESS
29		19	1	4	5	112	54	HUMAN RESOURCES & EMPLOYMENT
						2		INFRASTRUCTURE
4	1	3				5	4	JUSTICE & ATTORNEY GENERAL
17		15	1	1		27	5	Maintenance Enforcement Program
3		1	1	1		7	5	LEARNING
2				2		4		MUNICIPAL AFFAIRS
							1	REVENUE
2		1			1	5	2	SENIORS
1		1				4	3	SOLICITOR GENERAL
34		21	1	5	7	98	23	Corrections
2		2				4	2	SUSTAINABLE RESOURCE DEVELOPMENT
						3	3	TRANSPORTATION
120	**3**	**79**	**4**	**20**	**14**	**331**	**126**	**TOTAL: DEPARTMENTS**
								BOARDS, AGENCIES & PROFESSIONAL ORGANIZATIONS
1		1				1		ACCOUNTING PROFESSION
2		1		1		6		AGRICULTURE FINANCIAL SERVICES CORPORATION
								ALBERTA ALCOHOL & DRUG ABUSE COMMISSION
2		1		1		2		ALBERTA ENERGY & UTILITIES BOARD
2		2				4	2	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
1					1	2	1	ALBERTA PENSIONS ADMINISTRATION
								ALBERTA SECURITIES COMMISSION
								ALBERTA TEACHERS' RETIREMENT FUND BOARD
1		1				1		ALBERTA TRANSPORTATION SAFETY BOARD
6		4		2		12	2	ATB FINANCIAL
							4	CRIMINAL INJURIES REVIEW BOARD
3		1		2		4	4	HEALTH PROFESSIONS
						2	1	HEALTH FACILITIES REVIEW COMMITTEE
							1	LABOUR RELATIONS BOARD
1			1			1	1	MUNICIPAL GOVERNMENT BOARD
						2		NATURAL RESOURCES CONSERVATION BOARD
1		1				3		PERSONS WITH DEVELOPMENTAL DISABILITIES
								PUBLIC AFFAIRS BUREAU
1				1		2		SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD
39	4	29	3	3		56	12	WORKERS' COMPENSATION BOARD
15	2	9			4	40	13	APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION
1				1		1		ALBERTA VETERINARY MEDICAL ASSOCIATION
76	**6**	**50**	**4**	**11**	**5**	**139**	**41**	**TOTAL: BOARDS, AGENCIES & PROFESSIONAL ORGANIZATIONS**
196	**9**	**129**	**8**	**31**	**19**	**470**	**167**	**TOTAL**

HUMAN RESOURCES AND EMPLOYMENT DEPARTMENT

A significant number of the complaints handled by the Ombudsman's Office fall under the jurisdiction of the Human Resources and Employment Department. This is a massive department and has numerous reporting entities, including Assured Income for Severely Handicapped (AISH), Supports for Independence (SFI), Income Support, Employment Standards Branch, Workplace Health and Safety, Fraud Investigation and Eligibility Review Office and many others. The Workers' Compensation Board (WCB) and the Appeals Commission for Alberta Workers' Compensation also come under the Minister of Human Resources and Employment, although their statistics are reflected in the Boards, Agencies and Professional Organizations data.

The Human Resources and Employment Department accounted for nearly one-third of all complaints investigated this year.

In this reporting period, complaints against this Department (not including WCB files) generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	34	24%
Oral complaints	349	22%
New files opened	132	76%
TOTAL INVESTIGATED	**83**	**30%**

Of the 83 files investigated, 42% (35 files) were partially or fully supported, 53% (44 files) were unsupported and 5% (4 files) were discontinued.

INVESTIGATIVE SUMMARIES

PARTIALLY SUPPORTED COMPLAINT

An individual complained of harassment and abuse of authority by a fraud investigator. The issue of improper use of confidential information by a fraud investigator was investigated by the Office of the Information and Privacy Commissioner.

The Ombudsman's investigation found when an individual complained about a fraud investigator, the internal complaint review process was not well defined nor was the investigation well documented. Although internal procedure guidelines existed, all staff were not aware of the guidelines and did not necessarily follow them.

As a result of the Ombudsman's investigation, an internal review of the investigation process resulted in revised procedures to track correspondence separate from the clients' files, ensuring there is a clear conclusion to the issue and the findings and conclusions are well documented.

UNSUPPORTED COMPLAINT

A recipient of Assured Income for the Severely Handicapped (AISH) benefits complained an overpayment by AISH was unfairly assessed and upheld by the Citizen's Appeal Panel. The complainant also charged that evidence used in the decision was not supplied to the appellant, nor was there an opportunity for the appellant to object to the jurisdiction or members of the Appeal Panel.

The Ombudsman concluded the Ministry interpreted regulation and policy in a fair and reasonable manner to assess the overpayment when it determined funds received by the claimant were income rather than a business loan. The Ombudsman also found the Appeal Panel did not use evidence which was not supplied to the complainant and they also gave the complainant the opportunity to voice objections regarding the jurisdiction of the Panel members.

As the Panel's written decision contained fair and reasonable resolution on all matters and satisfactory explanation for its findings, the complaint was not supported by the Ombudsman.

SOLICITOR GENERAL: CORRECTIONAL SERVICES

The Department of the Solicitor General is responsible for Correctional Services, Public Security and the Law Enforcement Review Board. This year Correctional Services generated 34 percent of the oral complaints received by the Ombudsman's Office, more than any other department, board, agency or professional organization.

Most complaints received are from inmates in correctional facilities who feel they have been unfairly treated by corrections staff. It is important to note that nearly two-thirds of the complaints received this year were ultimately unsupported by the Ombudsman.

INVESTIGATIVE SUMMARIES

SUPPORTED COMPLAINT

An inmate complained his eyeglasses were lost by correctional centre staff and that he was informed he would be required to pay for half the cost of the replacement.

Subsequent to the Ombudsman launching an investigation, centre personnel reviewed the circumstances and acknowledged centre staff misplaced the glasses which resulted in the loss. The inmate's glasses were then replaced with no cost to the complainant.

The Ombudsman's investigation revealed the administrative error and the centre took steps to remedy the problem.

UNSUPPORTED COMPLAINT

An individual complained that certain personal property, including canteen, went missing while she was in and out of custody at a correctional centre.

The investigation showed that upon her admission to the centre, the complainant signed a Personal/Valuable Property Record detailing her personal items that were placed in storage. Upon her release, she further acknowledged receipt of all property listed on the Property Record. Canteen records were reviewed and there was no evidence indicating the complainant had purchased additional items during her incarceration.

The complaint was unsupported by the Ombudsman.

Correctional Services generated one-third of all oral complaints this year.

In this reporting period, complaints against this Department generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	16	11%
Oral complaints	427	27%
New files opened	105	21%
TOTAL INVESTIGATED	64	23%

Of the 64 files investigated, 23% (15 files) were partially or fully supported, 63% (40 files) were unsupported and 14% (9 files) were discontinued.

ALBERTA CHILDREN'S SERVICES

Children's Services supports families and communities in an effort to provide nurturing, safe environments for children.

In this reporting period, complaints against this Department generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	11	4%
Oral complaints	155	10%
New files opened	29	6%
TOTAL INVESTIGATED	**17**	**6%**

Of the 17 files investigated, 41% (7 files) were partially or fully supported, 53% (9 files) were unsupported and 6% (1 file) was discontinued.

Children's Services supports families and communities in an effort to provide nurturing, safe environments for children. There are ten Child and Family Services Authorities which represent and serve children in all regions of the province. This Ministry is also responsible for Child Welfare, Day Care, Adoption Records, Child Financial Support Program, Children's Advocate and other programs.

INVESTIGATIVE SUMMARIES

PARTIALLY SUPPORTED COMPLAINT

A mother complained to the Ombudsman that she was unfairly denied visits with her children who were in the temporary custody of Child Welfare even though she believed she complied with the Service Plan which outlined her behavioural requirements. She further complained that her phone calls were ignored by the case manager and that information about her case was improperly discussed between another case worker, a foster parent and a family member.

The Ombudsman partially supported the complaint on the issue of a lack of contact between the case worker and the complainant over a two-month period, even though the complainant left numerous messages. The case manager's supervisor agreed with this finding and has implemented changes in the workplace in an effort to resolve this problem.

There was no evidence to support the accusation that visits with her children had been terminated. The investigation found the complainant visited with her children in Alberta on several occasions and the children traveled out of province to visit with her at her residence. The change that did occur was in permanency planning for the children. The Child and Family Services Authority had been working towards returning the children to the mother's home. However, evidence of drug abuse caused the Authority to request Permanent Guardianship Orders for the children.

As the Ombudsman had no authority to investigate the breach of confidentiality accusation, the complainant was directed to contact the Information and Privacy Commissioner for the Province of Alberta.

UNSUPPORTED COMPLAINT

A complainant alleged a regional Child and Family Services Authority failed to investigate his reported concerns of the sexual abuse of his children.

The complainant said he gave Child Welfare a letter written by a psychiatrist which expressed concerns about sexual behaviour in the children. He also stated this letter was given to the case worker and nothing was done to investigate these concerns.

The Ombudsman's investigation found that the doctor had not submitted a report to Child Welfare requesting an investigation into sexual abuse. In fact, when the children made the first disclosure of sexual abuse one year later, Child Welfare and the RCMP began an immediate investigation which resulted in criminal charges.

As such, there was no evidence to suggest Child Welfare failed to investigate sexual abuse allegations and the file was closed as an unsupported complaint.

JUSTICE AND ATTORNEY GENERAL: MAINTENANCE ENFORCEMENT PROGRAM

The Justice and Attorney General's Department is responsible for Criminal Justice, Court Services, the Medical Examiner, the Public Trustee and the Maintenance Enforcement Program (MEP). The MEP ensures individuals meet their obligations to pay spousal and child support under the terms of court orders and certain other agreements. MEP has the legislative authority to take steps to enforce the support owed, including garnisheeing wages, registering at Land Titles and the Personal Property Registry, denying passports and canceling driver's licenses. In Alberta there are more than 90,000 creditors and debtors and nearly 60,000 children registered in MEP.

INVESTIGATIVE SUMMARIES

FULLY SUPPORTED COMPLAINT

An MEP debtor complained that MEP staff failed to respond to his three letters regarding an improper assessment of arrears and enforcement action. Two of the letters were sent directly to the Director of MEP via fax.

The complainant said MEP did not properly consider a court order when a stay was issued regarding payments for specific medical support. He said MEP considered him to be in arrears when he was not and that MEP took enforcement action to collect the arrears.

The MEP established the Complaint Review Process (CRP) to handle unresolved concerns, however this investigation determined many MEP clients are unaware of this process. Furthermore, MEP is inconsistent in its handling of complaints not addressed specifically to the CRP which raise issues that should be handled by the CRP.

As a result of this investigation, the complainant received written responses to his questions and a written apology, as well as prompt responses to subsequent correspondence. The Ombudsman wrote the Deputy Minister recommending improved access to the CRP.

UNSUPPORTED COMPLAINT

A debtor living abroad complained the enforcement actions taken by MEP to revoke his passport prevented him from complying with MEP's request for notarized financial statements. He stated he must produce a passport to get statements notarized, and yet he would not receive his passport until he provided a statement and made payments.

As the result of the Ombudsman's investigation, MEP determined through the Consul General in Canada that the complainant did not require a passport to have income verification notarized. The complainant said despite this, notaries in his area would not sign his documentation without his passport. The complainant gave a list of notaries to MEP and encouraged MEP to contact them directly. MEP requested e-mail addresses which the complainant refused to provide.

The Ombudsman determined the complainant did not fully co-operate with MEP. As a result the Ombudsman concluded that no administrative or procedural errors occurred and the complaint was unsupported.

The Maintenance Enforcement Program ensures individuals meet their obligations to pay spousal and child support.

In this reporting period, complaints against this Program generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	6	4%
Oral complaints	147	9%
New files opened	26	5%
TOTAL INVESTIGATED	**10**	**4%**

Of the 10 files investigated, 30% (3 files) were partially or fully supported, and 70% (7 files) were unsupported.

Features

APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION

The Appeals Commission for Alberta Workers' Compensation is separate and independent from the Workers' Compensation Board (WCB). It is a quasi-judicial administrative tribunal which hears appeals from people who are dissatisfied with rulings made by the WCB.

Decisions by this Commission resulted in 40 percent of the Ombudsman's total files investigated under the jurisdiction of Boards, Agencies and Professional Organizations. Only one-quarter of the investigations yielded partial or full support and 64 percent were unsupported. The remaining 11 percent were discontinued.

While this Commission reports to the Minister of Human Resources and Employment, its statistics and those of the WCB are reported separately from the remainder of the department.

The Appeals Commission for Alberta Workers' Compensation is separate and independent from the Workers' Compensation Board.

In this reporting period, complaints against this Commission generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	15	11%
Oral complaints	16	1%
New files opened	38	8%
TOTAL INVESTIGATED	**25**	**9%**

Of the 25 files investigated, 24% (6 files) were partially or fully supported, 64% (16 files) were unsupported and 12% (3 files) were discontinued.

INVESTIGATIVE SUMMARIES

SUPPORTED COMPLAINT

The former spouse of an injured worker complained the Appeals Commission improperly refused to grant an appeal by the spouse for back payment of Personal Care Allowance (PCA) for the time the injured worker and former spouse resided together.

The Ombudsman investigated three issues: Did the Appeals Commission Registrar have the authority to deny the appeal hearing? Do the Hearing Registrar and the Hearing Chair have the authority to rule on the merits of the case, since they initially ruled on the spouse's eligibility for PCA benefits? Did the Hearing Chair provide adequate reasons for not hearing the appeal?

The Ombudsman fully supported the complaint and found no formal delegated authority by either legislation or written delegation to either the Hearing Registrar or the Hearing Chair to make decisions regarding the Commission's jurisdiction to hear the appeal. Furthermore, the investigation determined the Registrar made a decision on the eligibility of the complainant for PCA benefits whereas the actual issue before the Commission was whether the Commission should grant an appeal of the initially denied claim for PCA benefits.

The Chief Appeals Commissioner accepted the Ombudsman's observation that the Registrar exceeded the jurisdiction of the Commission, and the complainant was granted a new hearing with the Appeals Commission.

UNSUPPORTED COMPLAINT

A worker complained the Appeals Commission unfairly supported a WCB decision to deny him entitlement to an Earnings Loss Supplement (ELS) when he returned to work four years after a compensable accident.

The worker claimed the original accident left him with other disabling injuries which have negatively affected his earnings capacity since returning to work. The investigation revealed the additional injuries were not reported in the worker's original accident report, the employer's initial accident report, the initial medical report nor in any subsequent medical report.

The Ombudsman determined the Appeals Commission had available all relevant medical evidence to establish the complainant's level of disability resulting from the initial accident and his eligibility for an ELS.

The Ombudsman was unable to support this complaint.

WORKERS' COMPENSATION BOARD

The Workers' Compensation Board (WCB) is a disability insurance system for protecting workers and employers involved in work-related injuries and illness.

Not including the Appeals Commission for Alberta Workers' Compensation, WCB files accounted for 27 percent of the total files investigated by the Ombudsman this year under the jurisdiction of Boards, Agencies and Professional Organizations. This Board also accounted for the highest number of oral complaints to the Ombudsman's Office, registering 76 percent of the total for the same reporting authorities.

While this Board is under the Minister of Human Resources and Employment, its statistics and those of the Appeals Commission for Alberta Workers' Compensation are reported separately from the remainder of the department.

The Workers' Compensation Board (WCB) is a disability insurance system for protecting workers and employers involved in work-related injuries and illness.

INVESTIGATIVE SUMMARIES

SUPPORTED COMPLAINT

A worker complained that new medical findings substantiating his claim for revised compensation were unfairly ignored and that the case manager unfairly refused the complainant's request for an appeal.

The Ombudsman's investigation determined the case manager should have referred the new medical evidence to the WCB Appeals Commission for review and should have ordered a re-examination to determine if his pension was adequately assessed.

The Board accepted the Ombudsman's finding of administrative error. The complainant received a letter of apology from the Board and confirmation that he would be re-examined. The complainant was further advised that if no change was made to his pension following the re-examination that his claim would be returned to the Decision Review Body for further consideration.

UNSUPPORTED COMPLAINT

A worker complained he was unfairly denied an extension to the time limit to appeal a pension award by the Chair's Delegate of the Claims Services Review Committee.

The Ombudsman investigated whether legislation and policy was properly considered by the Chair's Delegate and whether the complainant was given a fair and reasonable explanation of the denial.

The Ombudsman found the complainant was properly advised of his right to appeal the decision and confirmed his knowledge of the appeal process by launching two previous appeals. It was further determined the Chair's Delegate acted in accordance with legislation and provided the complainant with a reasonable explanation in writing regarding the denial. There was no evidence to support a claim of administrative or procedural error.

In this reporting period, complaints against this Board generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	11	8%
Oral complaints	262	17%
New files opened	57	11%
TOTAL INVESTIGATED	**17**	**6%**

Of the 17 files investigated: 41% (7 files) were partially or fully supported; 47% (8 files) were unsupported and 12% (2 files) were discontinued.

ATB FINANCIAL

ATB Financial is an external agency which reports to the Minister of Finance and to the people and businesses it serves.

Providing personal financial services to over half a million Albertans and more than 20,000 business customers, ATB operates a network of 145 branches and 226 automated banking machines in 240 communities throughout the province.

ATB Financial accounted for 10 percent of the total files investigated by the Ombudsman this year under the jurisdiction of Boards, Agencies and Professional Organizations.

ATB Financial is an external agency which reports to the Minister of Finance and to the people and businesses it serves.

In this reporting period, complaints against this agency generated the following statistics:

	NUMBER OF FILES	PERCENTAGE OF TOTAL FILES
Files carried forward from previous years	3	2%
Oral complaints	16	1%
New files opened	11	2%
TOTAL INVESTIGATED	**6**	**2%**

Of the 6 files investigated, 33% (2 files) were fully supported, 67% (4 files) were unsupported.

INVESTIGATIVE SUMMARIES

SUPPORTED COMPLAINT

A couple complained they were unfairly charged a $5500 payout penalty on a mortgage held by ATB Financial. They further complained they were not advised of the Farm Income Disaster program and that they received an intimidating letter stating a full payout penalty (rather than the reduced amount) would be sought if the customer pursued the payout assessment.

The Ombudsman's investigation found that ATB charged the customer the payout penalty even though the customer had complied with the Farm Debt Mediation agreement worked out with ATB. Upon receipt of the complaint from the Ombudsman, ATB resolved the issue by reimbursing the customer for the payout penalty.

UNSUPPORTED COMPLAINT

A citizen complained that demand for payment of farm loans and refusal by the ATB Financial branch to do further business with the complainant was unfair.

The Ombudsman's investigation determined the ATB Financial Manager of Service Excellence followed a fair and proper process during the internal investigation into the complainant's financial affairs and properly and adequately outlined her conclusions to the complainant. Furthermore, the investigation showed once the manager completed the internal review, the file was appropriately turned over to ATB Financial's legal counsel, who corresponded regularly with the complainant.

As the Ombudsman found no evidence of administrative unfairness, the complaint was not supported.

PROFESSIONAL ORGANIZATIONS

Over the last three years the Ombudsman's jurisdiction has expanded to include professional organizations under the *Regulated Accounting Profession Act*, the *Regulated Forestry Profession Act*, the Alberta Veterinary Medical Association under the *Veterinary Profession Act* and some of the colleges under the *Health Professions Act*. With the exception of the health professions, legislation has been proclaimed in all other professional areas, allowing the Ombudsman to investigate complaints as he does in more traditional jurisdictional areas. To date, only nine of 28 health profession schedules have been proclaimed, giving the Ombudsman authority to investigate the health profession colleges governing Dentists, Denturists, Hearing Aid Practitioners, Licensed Practical Nurses, Medical Laboratory Technologists, Optometrists, Registered Dieticians and Registered Nutritionists, Social Workers and Speech-Language Pathologists and Audiologists.

These professional organizations have generated a small number of complaints in this reporting period. In total, four files were carried forward from previous years and nine new files were opened. Only three files resulted in formal investigations, or five percent of the total files investigated under Boards, Agencies and Professional Organizations. All three complaints were partially supported by the Ombudsman.

Over the last three years the Ombudsman's jurisdiction has expanded to include professional organizations.

INVESTIGATIVE SUMMARY

PARTIALLY SUPPORTED COMPLAINT

A patient felt the Alberta Dental Association and College (ADA&C) unfairly dismissed his complaint about improper dental treatment he received from a licensed dentist. The patient also alleged the dentist in question was in conflict of interest because the dentist sat on the ADA&C Complaint Review Committee.

The Ombudsman's investigation did not support the conflict of interest allegation as there was no evidence to indicate the dentist sat on the Committee. However, the Ombudsman did support the complaint to the extent that while ADA&C followed the process legislated under the *Health Professions Act*, the letter sent by the Committee to the patient was administratively unfair. The Ombudsman concluded the Committee failed to provide adequate written reasons for its decision nor did it explain how the evidence was weighed, what evidence was accepted or rejected and why. ADA&C agreed with the Ombudsman's recommendation and subsequently prepared a revised decision with the additional information which was then sent to the patient.

KEY CASE

Features

In the regular course of investigating complaints, certain additional issues may arise which may not have been part of the original complaint but must nevertheless be investigated due to their far-reaching significance. Investigations may also reveal the need for policy and procedural changes, which supports our mission of ensuring Albertans are treated fairly, equitably and with respect. Following are several examples where the Ombudsman's Office effected change through our investigative process.

KEY CASE: MAINTENANCE ENFORCEMENT PROGRAM AND CHILDREN'S SERVICES

A year-long investigation resulted from a complaint letter in which a Maintenance Enforcement Program (MEP) debtor said he was unfairly charged ongoing maintenance payments for his children who were in protection under a Permanent Guardianship Order (PGO) and then adopted.

The original complaint focused on four main questions:

1. Were the children adopted?
2. Did MEP get adequate proof of adoption?
3. Is communication adequate between MEP and Children's Services when children are adopted?
4. What is the responsibility of the mother with regard to maintenance when the children are under a PGO?

Upon investigation, it was discovered the issues extended into the practices of Alberta Children's Services and an investigation was launched with that Department. Two other issues arose: should the complainant be paying maintenance, and in general, how should maintenance be handled?

The Ombudsman's investigation revealed that MEP had proven none of the children in question had been adopted in Alberta. MEP assumed they were in fact still wards of the province under PGO status and therefore the complainant would be required to continue to pay maintenance. It became apparent that MEP was relying on information from the Post Adoption Agency although their jurisdiction covers only Alberta, so they could not provide information on a possible adoption outside Alberta. Although there was no policy in place requiring MEP to contact the Child and Family Services Authority division of Children's Services, doing so eliminated doubt about possible adoptions outside the province. MEP has now instituted this practice as policy for future cases.

The investigation also revealed that there was no procedure in place for Children's Services to notify MEP when a child was adopted. This has been addressed under the new *Child, Youth and Family Enhancement Act* (CYFEA), which replaces the *Child Welfare Act*.

The final issue from the original complaint addressed whether or not the mother should be required to pay maintenance for the children, along with the father, after they were taken into custody. This issue of joint responsibility is also addressed under the new legislation.

On the issue of whether or not the complainant should be paying maintenance to the province, our Office concluded the government does indeed have the right in this case to continue to collect maintenance because it was established under the *Parentage and Maintenance Act* which contains a clause allowing the government to assign maintenance to the Crown. If maintenance had been established under a court order obtained through divorce, then maintenance could not be reassigned unless so directed by the court.

At the root of this issue was this basic question: at what point is maintenance no longer owed by a parent when children are involved in adoption, temporary or permanent guardianship, custody by agreement and other such arrangements? The Ombudsman's investigation revealed that only 4.6 percent of children in protection were subject to a court-ordered maintenance agreement registered with MEP, leaving the vast majority of cases unaccounted for in terms of maintenance collection.

Changes have already begun in advance of the expected fall 2004 proclamation of the new CYFEA legislation. The CYFEA will ensure that maintenance is considered by child workers throughout the process, even if the child receives protection services but is still in the family home. Court proceedings and additional training for child care workers and provincial court judges will address this and numerous other issues raised by this investigation.

KEY CASE: HEALTH & WELLNESS, ALBERTA HEALTH CARE

The Alberta Health Care (AHC) program is familiar to most Albertans. A recent complaint to the Ombudsman resulted in changes to how AHC deals with citizens who are not satisfied with the treatment they have received from AHC staff.

There is an opportunity within the AHC framework for citizens to apply for reduction or waiver of premiums based on income. An individual complained AHC refused to grant premium assistance for 1999. The complainant also stated the appeal process was unduly protracted and there was a general lack of communication from AHC.

Previously the Ombudsman's Office had investigated three other complaints which seemed to indicate a systemic lack of adequate communication with complainants regarding premium arrears and/or subsidy. In this case, the complainant detailed several efforts made to contact or appeal the AHC decision over a multi-year period, without success and often without acknowledgement from AHC.

Upon receipt of this information from the Ombudsman, the Deputy Minister investigated the complaint and agreed the complainant's file was not dealt with appropriately nor were all avenues of assistance clearly explained. This resulted in a credit of the outstanding arrears to the complainant's account along with a letter of apology.

AHC issued a revised policy in March 2004 outlining processes available to residents who are not satisfied with information provided or decisions made by AHC, including the written provision of these processes. AHC has circulated this internal document and staff have been reminded of the importance of thoroughly investigating files in order to provide better customer service.

While one complaint was supported and resolved, all Albertans will ultimately benefit from the delivery of better customer service from AHC.

KEY CASE: HUMAN RESOURCES AND EMPLOYMENT APPEALS SECRETARIAT

As the result of the Ombudsman's investigation into a complaint regarding the Assured Income for the Severely Handicapped (AISH) benefits program, several important policy and procedural changes were agreed to and implemented by the Deputy Minister to ensure fairer treatment for citizens with issues of overpayment and repayment of benefits.

The original complaint alleged there was an unfair overpayment and subsequent repayment requirement of benefits as the result of a case worker's error. The Ombudsman supported the complaint and determined the Citizen's Appeal Panel's decision on the matter was administratively unfair on two counts: the Panel failed to provide rationale for why the payment was reduced and the Panel failed to adequately explain how it dealt with the complainant's main argument that the error was made by department staff which should not have resulted in a demand to the complainant for repayment.

The department accepted the Ombudsman's recommendations and the complainant received an addendum to the Panel's ruling specifically addressing these two issues. More importantly, this case brought to light several areas pertaining to procedure and policy regarding AISH overpayments where changes could result in improved service delivery to clients. Through recommendations and discussion with the Deputy Minister, the Ombudsman secured agreement for improvement in a number of areas:

- AISH policy will be changed to remove language that restricts the discretion that is conferred by the related legislation;
- The policy which references administrative error in determining if an overpayment should be repaid will be removed;
- The policy section entitled Appeal of Overpayments or Monthly Deduction which guided the Appeal Panel was deemed confusing and will be removed;
- Appeal Panels will have the authority to determine whether there has been an overpayment and whether a repayment is required;
- The process to ensure the Director of the Appeals Secretariat has adequate information to make a decision regarding repayment of an overpayment will be formalized. This includes creation of a form specific to this task which will include pertinent details of the case, reasons for the request for repayment and the Director's decision and rationale.

This is a classic example of positive change the Ombudsman can effect through his investigative process. When administratively unfair processes come to light, it is the Ombudsman's mandate to propose change which will result in fairer treatment, including recommending revised policies and procedures when necessary. With the support and cooperation of the department in question, ultimately all Albertans benefit from the process.

OFFICE OF THE OMBUDSMAN
FINANCIAL STATEMENTS
AS AT MARCH 31, 2004

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AUDITOR'S REPORT

AUDITOR GENERAL *Alberta*

To the Members of the Legislative Assembly

I have audited the statement of financial position of the Office of the Ombudsman as at March 31, 2004 and the statements of changes in net liabilities, operations and cash flow for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In accordance with the corporate accounting policies and reporting practices established by Alberta Finance, the Office of the Ombudsman expenses capital asset purchases under $15,000. This threshold has resulted in no capital assets being recorded on the statement of financial position. Consequently, a significant amount of resources available to the Office for future use has been recorded as if it had been consumed. The omission of capital assets resulted in an understatement of assets of $65,000 at March 31, 2004, and a net understatement of expenses of approximately $70,000 for the year then ended.

In my opinion, except for the effects of the matter discussed in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at March 31, 2004 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Fred J. Dunn FCA
Auditor General

Edmonton, Alberta
June 4, 2004

STATEMENT OF FINANCIAL POSITION

as at March 31, 2004

	March 31 2004	March 31 2003
Current Assets		
Cash	$ 300	$ 300
Advances	4,500	2,500
	$ 4,800	$ 2,800
Current Liabilities		
Accounts payable and accrued liabilities	189,750	250,036
Net liabilities	(184,950)	(247,236)
	$ 4,800	$ 2,800

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF CHANGES IN NET LIABILITIES

for the year ended March 31, 2004

	March 31 2004	March 31 2003
Net liabilities at beginning of year	**$ (247,236)**	$ (170,168)
Net operating results	**(1,619,464)**	(1,577,076)
Net transfer from general revenues	**1,681,750**	1,500,008
Net liabilities at end of year	**$ (184,950)**	$ (247,236)

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF OPERATIONS

for the year ended March 31, 2004

	BUDGET (Note 4)	ACTUAL March 31 2004	ACTUAL March 31 2003
Expenses: (Note 4)			
Voted:			
Salary, wages, and employee benefits		**$ 1,223,553**	$ 1,277,599
Supplies and services		**386,479**	325,960
	$ 1,958,000	**1,610,032**	1,603,559
Valuation adjustments:			
Provision for vacation pay		**9,432**	(26,483)
Net operating results		**$ (1,619,464)**	$ (1,577,076)

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF CASH FLOW

for the year ended March 31, 2004

	March 31 2004	March 31 2003
Operating transactions:		
Net operating results	**$ (1,619,464)**	$ (1,577,076)
Non-cash items:		
Increase (decrease) in accrued vacation pay	**9,432**	(26,483)
	(1,610,032)	(1,603,559)
Increase (decrease) in accounts payable and accrued liabilities *	**(71,718)**	103,551
Cash used by operating transactions	**(1,681,750)**	(1,500,008)
Financing transactions:		
Net transfer from general revenues	**1,681,750**	1,500,008
Net cash provided	**-**	-
Cash, beginning of year	**300**	300
Cash, end of year	**$ 300**	$ 300

* Adjusted for accrued vacation pay

The accompanying notes and schedules are part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

for the year ended March 31, 2004

NOTE 1
Authority and Purpose

The Ombudsman is an officer of the Legislature who operates under the authority of the *Ombudsman Act*. The net cost of the operations of the Office of the Ombudsman is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office promotes fairness in public administration within the Government of Alberta.

NOTE 2
Summary of Significant Accounting Policies and Reporting Practices

These financial statements are prepared in accordance with the following accounting policies that have been established by the Government of the Province of Alberta. The recommendations of the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants are the primary source for these government policies. Recommendations of the Accounting Standards Board of the Canadian Institute of Chartered Accountants, other authoritative pronouncements, accounting literature, and published financial statements relating to either the public sector or analogous situations in the private sector are used to supplement the recommendations of the Public Sector Accounting Board where it is considered appropriate.

a) **Reporting Entity**

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Ombudsman is responsible.

The Office operates within the General Revenue Fund. The Fund is administrated by the Minister of Finance. All receipts of the Office are deposited into the Fund and all disbursements made by the Office are paid from the Fund.

b) **Basis of Financial Reporting**

Expenses

Expenses represent the costs of resources consumed during the year on the Office's operations.

Pension costs included in these statements comprise the cost of employer contributions for current service of employees during the year.

Certain expenses, primarily for office space, incurred on behalf of the Office by government departments are not reflected in the Statement of Operations but are disclosed in Schedule 2.

Valuation Adjustments

Valuation adjustments represent the change in management's estimate of future payments relating to vacation pay.

Assets

New systems development below $100,000 and other capital assets below $15,000 are expensed as acquired. Assets acquired by right or donation are recorded at nil cost.

Net Liabilities

Net liabilities represent the difference between the recorded value of the assets of the Office and its liabilities.

Valuation of Financial Assets and Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, advances, and accounts payable and accrued liabilities are estimated to approximate their book values.

NOTE 3
Lease Obligations or Commitments

The Office leases certain equipment under operating leases that expire on various dates to 2007. The aggregate amounts payable for the unexpired terms of these leases are as follows:

2005	$4,668
2006	$3,510
2007	$1,242
Total	$9,420

NOTE 4
Budget

Expenses:

2003-04 authorized budget [a]	$1,958,000
2003-04 actual expenses (excluding valuation adjustments)	1,610,032
2003-04 unexpended (excluding valuation adjustments)	$347,968

[a] Legislative Assembly Estimates approved on March 24, 2003.

NOTE 5
Defined Benefit Plan (in thousands)

The Office participates in the multi-employer pension plans, Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of $89 for the year ended March 31, 2004 (2003 - $68).

At December 31, 2003, the Management Employees Pension Plan reported a deficiency of $290,014 (2002 - deficit $301,968) and the Public Service Pension Plan reported an actuarial deficiency of $596,213 (2002 - $175,528). At December 31, 2003, the Supplementary Retirement Plan for Public Service Managers had an actuarial surplus of $9,312 (2002 - $6,472).

The Office also participates in two multi-employer Long Term Disability Income Continuance Plans. At March 31, 2004, the Bargaining Unit Plan reported an actuarial deficiency of $9,766 (2003 - $14,434) and the Management, Opted Out and Excluded Plan an actuarial surplus of $1,298 (2003 - actuarial deficiency of $3,053). The expense for these two plans is limited to employer's annual contributions for the year.

NOTE 6
Approval of Financial Statements

These financial statements were approved by the Senior Financial Officer and the Ombudsman.

Schedule 1 - SALARY AND BENEFITS DISCLOSURE

for the year ended March 31, 2004

	2004				2003
	Base Salary [1]	Other Cash Benefits [2]	Other Non-cash Benefits [3]	Total	Total
Senior official					
Ombudsman [4] [5]	$99,045	$10,448	$12,204	$121,697	$123,817

[1] Base salary includes pensionable base pay.

[2] Other cash benefits include bonuses, vacation payments, overtime, and lump sum payments.

[3] Other non-cash benefits include government's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long term disability plans, professional memberships and tuition fees (listing should be comprehensive).

[4] Automobile provided, no dollar amount included in benefits and allowances.

[5] Ombudsman position vacant two and one half months.

Schedule 2 - SCHEDULE OF ALLOCATED COSTS

for the year ended March 31, 2004

	2004				2003
		Expenses - Incurred by Others	Valuation Adjustments [3]		
Program	Expenses [1]	Accommodation Costs [2]	Vacation Pay	Total Expenses	Total Expenses
Operations	$1,610,032	$ 200,246	$ 9,432	$1,819,710	$1,771,352

[1] Expenses - Directly Incurred as per Statement of Operations, excluding valuation adjustments.

[2] Costs shown for Accommodation (includes grants in lieu of taxes), allocated by square footage.

[3] Valuation Adjustments as per Statement of Operations. Employee Benefits provision were allocated by employee.

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